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7-23-2009

# NEW TWO-THIRDS VOTE REQUIREMENT FOR LOCAL PUBLIC ELECTRICITY PROVIDERS. INITIATIVE CONSTITUTIONAL AMENDMENT

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CONSTITUTIONAL AMENDMENT California Initiative 1369 (2009).  
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# State of California



## SECRETARY OF STATE

January 12, 2010

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS (CCROV 10019)

Pursuant to Section 9033 of the Elections Code, I hereby certify that on January 12, 2010, the certificates received from the County Clerks or Registrars of Voters by the Secretary of State established that the NEW TWO-THIRDS VOTE REQUIREMENT FOR LOCAL PUBLIC ELECTRICITY PROVIDERS. INITIATIVE CONSTITUTIONAL AMENDMENT. (#1369), has been signed by the requisite number of qualified electors needed to declare the petition sufficient. NEW TWO-THIRDS VOTE REQUIREMENT FOR LOCAL PUBLIC ELECTRICITY PROVIDERS. INITIATIVE CONSTITUTIONAL AMENDMENT. (#1369), is, therefore, qualified for the next statewide election.

NEW TWO-THIRDS VOTE REQUIREMENT FOR LOCAL PUBLIC ELECTRICITY PROVIDERS. INITIATIVE CONSTITUTIONAL AMENDMENT. Requires local governments to obtain the approval of two-thirds of the voters before providing electricity to new customers or expanding such service to new territories if any public funds or bonds are involved. Requires same two-thirds vote to provide electricity through a community choice program if any public funds or bonds are involved. Requires the vote to be in the jurisdiction of the local government and any new territory to be served. Provides exceptions to the voting requirements for a limited number of identified projects. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Unknown impact on state and local government costs and revenues, depending on future voter decisions, due to the measure's potential effects on electricity rates and publicly owned utility operations. (09-0015.)



IN WITNESS WHEREOF, I hereunto set my hand  
and affix the Great Seal of the State of California  
this 12th day of January, 2010.

DEBRA BOWEN  
Secretary of State

1369. New Two-Thirds Vote Requirement for Local Public Electricity Providers. Initiative Constitutional Amendment.

COUNTY	PETITION FILED W/COUNTY	SOS REC'D RAW	SOS REC'D RANDOM		RAW COUNT	RANDOM SAMPLE/ FULL CHECK	VALID SIGS.	INVALID	DUP.	VALID OR PROJ. VALID	%
1. ALAMEDA	11/16/09	11/25/09	12/29/09		60,576	1,817	1,378	439	4	41,628	68.7%
2. ALPINE	11/13/09	12/08/09	12/08/09	Random Notice:	4	4	3	1	0	3	75.0%
3. AMADOR	11/16/09	11/19/09	12/10/09	12/01/09	1,888	500	425	74	1	1,594	84.4%
4. BUTTE	11/13/09	11/20/09	12/01/09	Random Due:	19,226	577	487	90	4	11,919	62.0%
5. CALAVERAS	11/13/09	11/18/09	12/14/09	01/14/10	1,888	500	420	80	2	1,563	82.9%
6. COLUSA	11/13/09	11/16/09	11/20/09		137	137	99	18	3	99	72.3%
7. CONTRA COSTA	11/16/09	11/24/09	12/18/09		32,492	975	731	244	3	21,129	65.0%
8. DEL NORTE	11/13/09	11/18/09	12/17/09		497	497	303	188	6	303	61.0%
9. EL DORADO	11/17/09	11/20/09	12/08/09		4,056	500	414	86	2	3,243	80.0%
10. FRESNO	11/13/09	11/20/09	01/04/10		29,152	884	777	107	4	21,405	73.4%
11. GLENN	11/13/09	11/13/09	12/21/09		624	500	374	126	17	461	74.0%
12. HUMBOLDT	11/13/09	12/18/09	12/18/09		1,160	500	354	146	1	818	70.5%
13. IMPERIAL	11/13/09	11/18/09	12/11/09		124	124	91	33	2	91	73.4%
14. INYO	11/16/09	11/23/09	11/23/09		46	46	36	10	0	36	78.3%
15. KERN	11/13/09	11/25/09	12/14/09		36,422	1,093	738	355	3	21,381	58.6%
16. KINGS	11/13/09	11/19/09	12/14/09		2,494	500	346	154	4	1,646	66.0%
17. LAKE	11/13/09	11/20/09	12/21/09		1,550	500	377	123	5	1,136	73.3%
18. LASSEN	11/13/09	11/18/09	12/10/09		64	64	51	13	1	51	79.7%
19. LOS ANGELES	11/16/09	11/23/09	12/30/09		272,539	8,178	6,140	2,036	9	194,971	71.5%
20. MADERA	11/13/09	12/08/09	12/21/09		2,444	500	378	122	2	1,810	74.0%
21. MARIN	11/13/09	12/02/09	12/02/09		3,005	500	415	85	1	2,464	82.0%
22. MARIPOSA	11/13/09	11/20/09	12/22/09		441	441	338	103	6	338	76.6%
23. MENDOCINO	11/13/09	12/17/09	12/17/09		1,940	500	430	70	4	1,624	83.7%
24. MERCED	11/13/09	11/18/09	11/30/09		4,582	500	336	164	1	3,004	65.6%
25. MODOC	11/13/09	11/24/09	11/24/09		32	32	25	7	0	25	78.1%
26. MONO	11/16/09	11/19/09	11/19/09		18	18	14	4	0	14	77.8%
27. MONTEREY	11/13/09	11/16/09	12/17/09		3,645	500	375	125	0	2,734	75.0%
28. NAPA	11/13/09	11/17/09	12/03/09		6,204	500	389	111	6	3,977	64.1%
29. NEVADA	11/13/09	11/13/09	12/21/09		854	500	392	108	2	667	78.1%
30. ORANGE	11/16/09	11/30/09	01/12/09		85,388	2,562	2,079	483	4	84,980	78.1%
31. PLACER	11/17/09	11/23/09	11/23/09		7,580	500	401	99	0	6,079	80.2%
32. PLUMAS	11/13/09	11/18/09	11/18/09		139	139	114	24	1	114	82.0%
33. RIVERSIDE	11/16/09	11/23/09	01/07/10		33,378	1,001	763	238	0	25,442	76.2%
34. SACRAMENTO	11/16/09	11/25/09	12/14/09		66,381	1,991	1,516	475	6	44,075	66.4%
35. SAN BENITO	11/13/09	11/16/09	12/17/09		712	500	379	121	4	537	75.5%
36. SAN BERNARDINO	11/16/09	11/30/09	01/12/10		89,324	2,680	2,049	631	5	62,905	70.4%
37. SAN DIEGO	11/16/09	12/02/09	12/11/09		158,607	4,758	3,843	915	13	114,093	71.9%
38. SAN FRANCISCO	11/16/09	11/23/09	12/15/09		4,997	500	351	149	0	3,508	70.2%
39. SAN JOAQUIN	11/16/09	11/25/09	12/14/09		15,366	500	371	129	2	9,574	62.3%
40. SAN LUIS OBISPO	11/13/09	11/24/09	12/23/09		6,098	500	378	122	2	4,337	71.1%
41. SAN MATEO	11/13/09	11/19/09	12/17/09		4,677	500	352	148	0	3,293	70.4%
42. SANTA BARBARA	11/16/09	11/23/09	12/18/09		5,676	500	356	144	1	3,924	69.1%
43. SANTA CLARA	11/16/09	11/24/09	12/08/09		26,679	800	667	133	1	21,165	79.3%
44. SANTA CRUZ	11/13/09	11/20/09	01/05/10		12,799	500	379	121	1	9,072	70.9%
45. SHASTA	11/13/09	11/20/09	12/21/09		6,495	500	387	113	4	4,404	67.8%
46. SIERRA	11/20/09	11/23/09	11/23/09		5	5	5	0	0	5	100.0%
47. SISKIYOU	11/13/09	11/17/09	12/17/09		133	133	96	37	2	96	72.2%
48. SOLANO	11/13/09	11/18/09	01/04/10		27,924	838	608	230	6	13,798	49.4%
49. SONOMA	11/13/09	11/16/09	12/02/09		23,731	712	572	140	4	14,755	62.2%
50. STANISLAUS	11/16/09	11/17/09	01/05/10		14,813	500	399	101	1	10,973	74.1%
51. SUTTER	11/13/09	11/16/09	12/04/09		1,846	500	362	138	4	1,297	70.2%
52. TEHAMA	11/13/09	11/23/09	12/21/09		1,286	500	375	125	4	948	73.7%
53. TRINITY	11/13/09	11/20/09	11/20/09		84	84	63	21	0	63	75.0%
54. TULARE	11/20/09	11/30/09	12/21/09		9,053	500	382	118	3	5,987	66.1%
55. TUOLUMNE	11/13/09	11/16/09	12/02/09	RANGE:	5,997	500	414	85	1	4,834	80.6%
56. VENTURA	11/13/09	11/25/09	01/11/10	110% = 763,790	20,215	606	476	130	2	13,720	67.9%
57. YOLO	11/13/09	11/23/09	12/17/09	100% = 694,354	2,414	500	366	134	6	1,656	68.6%
58. YUBA	11/13/09	11/17/09	12/03/09	95% = 669,637	2,045	500	345	155	7	1,323	64.7%
TOTAL:					1,121,944	46,194	35,484	10,681	177	787,071	70.15%



**DEBRA BOWEN | SECRETARY OF STATE**  
**STATE OF CALIFORNIA | ELECTIONS**

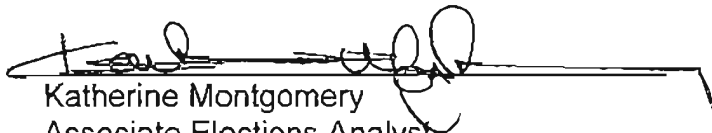
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July 23, 2009

County Clerk/Registrar of Voters (CC/ROV) Memorandum #09121

TO: All County Clerks/Registrars of Voters and Proponent

FROM:

  
Katherine Montgomery  
Associate Elections Analyst

RE: Initiative: 1369, Related to Vote Requirement for Local Public Electricity

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**NEW TWO-THIRDS VOTE  
REQUIREMENT FOR LOCAL PUBLIC ELECTRICITY  
PROVIDERS. INITIATIVE CONSTITUTIONAL AMENDMENT.**

The proponent of the above-named measure is:

Robert Lee Pence  
c/o Steve Lucas  
Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP  
1415 L Street, Suite 1200  
Sacramento, CA 95814

(415) 389-6800

#1369

NEW TWO-THIRDS VOTE  
REQUIREMENT FOR LOCAL PUBLIC ELECTRICITY  
PROVIDERS. INITIATIVE CONSTITUTIONAL AMENDMENT.

CIRCULATING AND FILING SCHEDULE

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1. Minimum number of signatures required: .....694,354  
California Constitution, Article II, Section 8(b)
2. Official Summary Date: .....Thursday, 07/23/09
3. Petitions Sections:
  - a. First day Proponent can circulate Sections for  
signatures (Elec. Code § 336) ..... Thursday, 07/23/09
  - b. Last day Proponent can circulate and file with the county.  
All sections are to be filed at the same time within each  
county. (Elec. Codes §§ 336, 9030(a))..... Monday, 12/21/09\*
  - c. Last day for county to determine total number of  
signatures affixed to petitions and to transmit total  
to the Secretary of State (Elec. Code § 9030(b)).....Monday, 01/04/10  
  
(If the Proponent files the petition with the county on a date prior to  
12/21/09, the county has eight working days from the filing of the petition  
to determine the total number of signatures affixed to the petition and to  
transmit the total to the Secretary of State) (Elec. Code § 9030(b)).
  - d. Secretary of State determines whether the total number  
of signatures filed with all county clerks/registrars of  
voters meets the minimum number of required signatures  
and notifies the counties.... Wednesday, 01/13/10\*\*
  - e. Last day for county to determine total number of qualified  
voters who signed the petition, and to transmit certificate  
with a blank copy of the petition to the Secretary of State  
(Elec. Code § 9030(d)(e)).....Monday, 03/01/10

\* Date adjusted for official deadline, which falls on a weekend (Elec. Code § 15).

\*\* Date varies based on the date of county receipt.

**INITIATIVE #1369**

**Circulating and Filing Schedule continued:**

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(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 01/13/10, the last day is no later than the thirtieth working day after the county's receipt of notification). (Elec. Code § 9030(d)(e)).

- f. If the signature count is more than 763,790 or less than 659,637 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 659,637 and 763,790 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures (Elec. Code §§ 9030(f)(g), 9031(a)) .....Thursday, 03/11/10\*

- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (Elec. Code § 9031(b)(c)). .....Friday, 04/23/10

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 03/11/10, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elec. Code § 9031(b)(c).)

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (Elec. Code §§ 9031(d), 9033).....Tuesday, 04/27/10\*

\*Date varies based on the date of county receipt.

## IMPORTANT POINTS

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- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal.App.3d 825, 177 Cal.Rptr. 621; 63 Ops.Cal.Atty.Gen. 37 (1980).
- Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

EDMUND G. BROWN JR.  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555  
Telephone: (916) 445-4752  
Facsimile: (916) 324-8835  
E-Mail: Krystal.Paris@doj.ca.gov

July 23, 2009

**FILED**  
In the office of the Secretary of State  
of the State of California

JUL 23 2009

Honorable Debra Bowen  
Secretary of State of the State of California  
State of California Elections  
1500 11th Street, 5th Floor  
Sacramento, CA 95814

Debra Bowen, Secretary of State  
By   
Deputy Secretary of State

Attention: Ms. Katherine Montgomery  
Associate Elections Analyst

Re: Initiative 09-0015, "The Taxpayers Right to Vote Act."  
Official Circulating Title: NEW TWO-THIRDS VOTE REQUIREMENT FOR LOCAL  
PUBLIC ELECTRICITY PROVIDERS. INITIATIVE CONSTITUTIONAL AMENDMENT.

Dear Secretary Bowen:

Pursuant to Elections Code sections 9004 and 336, you are hereby notified that on this day we mailed our title and summary for initiative 09-0015, "The Taxpayers Right to Vote Act" to the proponent. A copy of that title and summary and text of the proposed measure is enclosed.

Please contact me if you have any questions.

Sincerely,



KRYSTAL M. PARIS  
Initiative Coordinator

For EDMUND G. BROWN JR.  
Attorney General

Proponent: Robert Lee Pence  
c/o Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP  
Attn.: Steve Lucas  
1415 L Street, Suite 1200  
Sacramento, CA 95814



The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**NEW TWO-THIRDS VOTE REQUIREMENT FOR LOCAL PUBLIC ELECTRICITY PROVIDERS. INITIATIVE CONSTITUTIONAL AMENDMENT.**

Requires local governments to obtain the approval of two-thirds of the voters before providing electricity to new customers or expanding such service to new territories if any public funds or bonds are involved. Requires same two-thirds vote to provide electricity through a community choice program if any public funds or bonds are involved. Requires the vote to be in the jurisdiction of the local government and any new territory to be served. Provides exceptions to the voting requirements for a limited number of identified projects. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Unknown impact on state and local government costs and revenues, depending on future voter decisions, due to the measure's potential effects on electricity rates and publicly owned utility operations. (09-0015.)

May 28, 2009

09 - 0015

VIA PERSONAL DELIVERY

The Honorable Edmund G. Brown, Jr.  
Attorney General  
1300 I Street  
Sacramento, CA 95814

**RECEIVED**

JUN 01 2009

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Attention: Krystal Parls, Initiative Coordinator

Re: Request for Title and Summary- Initiative Constitutional Amendment

Dear Mr. Brown:

Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared for the attached Initiative entitled "The Taxpayers Right to Vote Act" as provided by law. Included with this submission is the required proponent affidavit signed by myself as proponent of this measure pursuant to section 9608 of the California Elections Code. My address as a registered voter is provided and attached to this letter, along with a check for \$200.00.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814, (916) 446-6752, Attention: Steve Lucas (telephone: 415/389-6800).

Thank you for your assistance.

Sincerely,

Robert Lee Pence, Proponent

Enclosure: Proposed Initiative

## Section 1. FINDINGS AND DECLARATIONS

09 - 0015

The People do find and declare:

A. This initiative shall be known as "The Taxpayers Right to Vote Act."

B. California law requires two-thirds voter approval for tax increases for specific purposes.

C. The politicians in local governments should be held to the same standard before using public funds, borrowing, issuing bonds guaranteed by ratepayers or taxpayers, or obtaining other debt or financing to start or expand electric delivery service, or to implement a plan to become an aggregate electricity provider.

D. Local governments often start or expand electric delivery service, or implement a plan to become an aggregate electricity provider, without approval by a vote of the people.

E. Frequently the start-up, expansion, or implementation plan requires either construction or acquisition of facilities or other services necessary to deliver the electric service, to be paid for with public funds, borrowing, bonds guaranteed by ratepayers or taxpayers, or other debt or financing.

F. The source of the public funds, borrowing, debt, and bond financing is generally the electricity rates charged to ratepayers as well as surcharges or taxes imposed on taxpayers.

G. Such use of public funds and many forms of borrowing, debt or financing do not presently require approval by a vote of the people, and where a vote is required, only a majority vote may be required.

## Section 2. STATEMENT OF PURPOSE

A. The purpose of this initiative is to guarantee to ratepayers and taxpayers the right to vote any time a local government seeks to use public funds, public debt, bonds or liability, or taxes or other financing to start or

expand electric delivery service to a new territory or new customers, or to implement a plan to become an aggregate electricity provider.

B. If the start-up or expansion requires the construction or acquisition of facilities or services that will be paid for with public funds, or financed through bonds to be paid for or guaranteed by ratepayers or taxpayers, or to be paid for by other forms of public expenditure, borrowing, liability or debt, then two-thirds of the voters in the territory being served and two-thirds of the voters in the territory to be served, voting at an election, must approve the expenditure, borrowing, liability or debt. Also, if the implementation of a plan to become an aggregate electricity provider requires the use of public funds, or financing through bonds guaranteed by ratepayers or taxpayers, or other forms of public expenditure, borrowing, liability or debt, then two-thirds of the voters in the jurisdiction, voting at an election, must approve the expenditure, borrowing, liability or debt.

Section 3. Section 9.5 is added to Article XI of the California Constitution to read:

Sec. 9.5.

- (a) Except as provided in subdivision (h), no local government shall, at any time, incur any bonded or other indebtedness or liability in any manner or use any public funds for the construction or acquisition of facilities, works, goods, commodities, products or services to establish or expand electric delivery service, or to implement a plan to become an aggregate electricity provider, without the assent of two-thirds of the voters within the jurisdiction of the local government and two-thirds of the voters within the territory to be served, if any, voting at an election to be held for the purpose of approving the use of any public funds, or incurring any liability, or incurring any bonded or other borrowing or indebtedness.
- (b) "Local government" means a municipality or municipal corporation, a municipal utility district, a public utility district, an irrigation district, a city, including a charter city, a county, a city and county, a district, a special district, an agency, or a joint powers authority that includes one or more of these entities.

- (c) "Electric delivery service" means (1) transmission of electric power directly to retail end-use customers, (2) distribution of electric power to customers for resale or directly to retail end-use customers, or (3) sale of electric power to retail end-use customers.
- (d) "Expand electric delivery service" does not include (1) electric delivery service within the existing jurisdictional boundaries of a local government that is the sole electric delivery service provider within those boundaries, or (2) continuing to provide electric delivery service to customers already receiving electric delivery service from the local government prior to the enactment of this section.
- (e) "A plan to become an aggregate electricity provider" means a plan by a local government to provide community choice aggregation services or to replace the authorized local public utility in whole or in part for electric delivery service to any retail electricity customers within its jurisdiction.
- (f) "Public funds" means, without limitation, any taxes, funds, cash, income, equity, assets, proceeds of bonds or other financing or borrowing, or rates paid by ratepayers. "Public funds" do not include federal funds.
- (g) "Bonded or other indebtedness or liability" means, without limitation, any borrowing, bond, note, guarantee or other indebtedness, liability or obligation, direct or indirect, of any kind, contingent or otherwise, or use of any indebtedness, liability or obligation for reimbursement of any moneys expended from taxes, cash, income, equity, assets, contributions by ratepayers, the treasury of the local government or other sources.
- (h) This section shall not apply to any bonded or other indebtedness or liability or use of public funds that (1) has been approved by the voters within the jurisdiction of the local government and within the territory to be served, if any, prior to the enactment of this section; or (2) is solely for the purpose of purchasing, providing or supplying renewable electricity from biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal

current, or providing electric delivery service for the local government's own end use and not for electric delivery service to others.

#### Section 4. Conflicting Measures

A. This initiative is intended to be comprehensive. It is the intent of the People that in the event that this initiative and another initiative relating to the same subject appear on the same statewide election ballot, the provisions of the other initiative or initiatives are deemed to be in conflict with this initiative. In the event this initiative shall receive the greater number of affirmative votes, the provisions of this initiative shall prevail in their entirety, and all provisions of the other initiative or initiatives shall be null and void.

B. If this initiative is approved by voters but superseded by law or by any other conflicting ballot initiative approved by the voters at the same election, and the conflicting law or ballot initiative is later held invalid, this initiative shall be self-executing and given full force of law.

#### Section 5. Severability

The provisions of this initiative are severable. If any provision of this initiative or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.